

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

1 of 7

Purpose:

To establish a Board of Supervisors policy requiring competitive procurement of goods and services, with exceptions for certain goods, services and classes of procurement, and an approval process for case-by-case exceptions.

Background:

It makes good business sense for the County of San Diego to promote the economical and efficient procurement of goods and services from contractors doing business with the County. One important means of accomplishing this goal is to formally adopt a policy of competitive procurement to govern all County procurements. Accordingly, this policy provides that County procurements shall be conducted through competition to the maximum possible extent. Where the best interest of the County cannot be served through competitive procurement, however, this policy provides categorical exemptions and also a process for requesting exceptions to this policy.

Policy:

It is the policy of the Board of Supervisors that:

Procurement of items or services required by the County, shall be made on a competitive basis unless it is in the County's best interests to:

- A. Exempt a particular category of procurement from competition.
- B. Allow the procuring department to obtain an exemption from competitive based on the unique circumstances of the procurement, as described under Section A, "Exemptions" or Section B "Exceptions," below.

The competitive procurement requirements of this policy may be satisfied through conducting either (a) Formal Bidding, or (b) Competitive Negotiated Procurement, as described under "Definitions," below.

General Provisions:

1. Exemptions from competitive Procurement Policy:

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

2 of 7

This policy categorically exempts the following goods, services and classes of procurements from competitive procurement requirements:

A. Utility Services: Procurement of needed item or service is from a utility company where service connections are only allowed in geographically defined service territories or where the work involves a utility system when only the utility company itself is allowed to work upon the system.

B. Educational Services: Procurement of educational services from nonprofit institutions.

C. Goods or Services Acquired for Other Governmental Agencies: Procurement of goods or services directly from other governmental agencies, or under contracts awarded competitively by other governmental agencies to third parties, when the price can be determined to be fair and reasonable.

D. Standard Commercial Software Packages Off-the-Shelf Computer or Hardware Products (“COTS”): Procurement of software or hardware products that are ready-made, available for sale to the government and to the general public, and designed to be implemented easily into existing computer systems without the need for extensive customization. COTS include those listed in the County’s IT outsourcer’s “Catalog”, and those approved by the Chief Technology Office.

E. Equipment Maintenance Services: Maintenance Services Agreements provided by the equipment manufacturer or dealers/distributors as a result of a Life Cycle Cost Purchase determination or which are not available from satisfactory alternate source as determined by the Purchasing and Contracting Director.

F. Computer Software, Software Licenses and Operating System Maintenance Services: Where the County has procured software and operating systems for its use, procurement of the continuing maintenance and upgrades of such software and operating systems, and renewal of software licenses, from its developer or manufacturer.

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

3 of 7

G. Disabled Veterans Business Enterprises (DVBE): Procurement of goods and services up to \$50,000 from a DVBE located in the County of San Diego and certified as a DVBE by the State of California.

H. Architectural, Engineering and Related Professional Services: Services shall be procured in accordance with Board Policy F-40 and Public Works shall be processed in accordance with applicable laws of the State of California, Public Contracts Code, and County implementing procedures.

To confirm an exemption from this policy, procuring departments shall cite the applicable exemption in their request for approval of the procurement transmitted to the appropriate contracting authority (i.e., the Board of Supervisors or the Director of the Department of Purchasing and Contracting).

2. Exceptions to Competitive Procurement Policy:

The following examples are illustrative of circumstances that may be considered in authorizing case-by-case exceptions to this policy.

A. Sole Source Provider Only one person, firm or manufacturer exists that can provide the needed item or services and there is no available equivalent to meet the County's minimum needs.

B. Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of the basic raw material(s) or similar circumstances, and there is no equivalent item or service.

3. Absolute Compatibility:

- A. When the procurement is for replacement parts or components for equipment data available is not adequate to ensure that the parts or components obtained from another supplier will perform the same function in the equipment as the part or component it is to replace.
- B. The non-competitive procurement will The requirement for prevent safety or reliability problems that may occur when parts or components from different manufacturer's warranty or guarantee.
- C. The procurement is for upgrades, enhancements or additions to hardware or software to central site mainframe or mini-computer

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

4 of 7

equipment and data is unavailable to assure that equipment from different manufacturers will be as compatible as equipment from the original manufacturer(s).

4. Threshold Amounts for Determining Required Approvals of Sole Source and Other Exceptions to Competitive Procurement:

The following threshold amounts shall determine the required level for review and approval of sole source and other exceptions to this policy:

Procurements with an estimated value of:

- A. Up to \$50,000 – Purchasing and Contracting Director
- B. \$50,000 - \$100,000 – Chief Administrative Officer
- C. Over \$100,000 – Board of Supervisors
- D. In cases of Public Exigency as defined under “Definitions” below, the Chief Administrative Officer is authorized to approve Sole Source Procurements above the \$100,000 threshold without Board of Supervisors approval.

5. Letters Requesting Sole Source and Other Exceptions to this Policy:

Whether requiring approval by the Director of Purchasing and Contracting, the Chief Administrative Officer, or the Board of Supervisors, letters/e-mail requests requesting sole source and other exceptions to this policy shall conform to the following format to enable the reviewing parties to understand the request, and any pricing issues:

- A. Introductory paragraph on the procurement.
- B. Items or services and the term period.
- C. Benefits to the County of San Diego.
- D. Why the procurement qualifies for a sole source or other exception under Board of Supervisor’s Policy A-87.
- E. Determination of Fair and Reasonable Price.

6. Processing of Contracts Resulting from Any Non-Competitive Procurement:

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

5 of 7

Contracts resulting from any approved non-competitive procurement, i.e., contracts approved pursuant to either an “exemption” or an “exception” to the competitive procurement requirements of this policy, shall be processed as follows:

A. All procurements exempt from this policy, as described in Section A “Exemptions,” above, and all contracts in amounts of up to \$100,000 resulting from procurements approved as exceptions to competitive bidding, as described in Section B, “Exceptions,” above, shall be forwarded to the Purchasing and Contracting Director for processing in accordance with the Section 705 of the County Charter, and Section 401 of the County Administrative Code;

B. All contracts in amounts over \$100,000 resulting from procurements approved as exceptions to competitive bidding shall be forwarded, with recommendation, to the Board of Supervisors for processing; and

C. Notwithstanding the foregoing, the Chief Administrative Officer may approve any contract as an exception to competitive bidding in accordance with the Public Exigency provision in paragraph (B) (3) (d) above.

Where the applicable authority denies a request for a non-competitive procurement, the procurement shall be conducted through the use of the appropriate form of competitive procurement, as described under “Policy,” above.

7. Advertising Non-Competitive Procurements:

For Board-approved non-competitive procurements of over \$100,000, the procuring department shall advertise the proposed procurement in an appropriate business newspaper, or on the Internet. For non-competitive procurements of less than \$100,000, the Director of Purchasing and Contracting shall have discretion to advertise these proposed procurements either in an appropriate business newspaper, or on the Internet.

8. Definitions:

A. **“Formal Bidding”:** A competitive procurement process in which prospective offerors respond to a solicitation for bids. A Request for Bid (RFB) is usually the solicitation vehicle for this method of procurement. The bids must comply with the specifications, terms and conditions for the needed item(s) or service(s) stated in the solicitation. The process is used when the specifications can be sufficiently defined and detailed to assure the procurement of appropriate and acceptable item(s) or service(s).

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

6 of 7

Contract award is made on the basis of price to the lowest bidder who is both responsive (complies with the stated specifications) and responsible (competent and otherwise qualified to perform under any resulting contract). The County Contracting Manual and its Supplements provide further definition and County procedures for this process.

B. “Competitive Negotiated Procurement”: A competitive negotiated procurement process in which prospective offerors respond to a solicitation for pricing and other qualifications, and negotiation of submitted terms is possible prior to contract award. The County may initiate competitive negotiated procurements by issuing a Request for Proposal (RFP), a Request for Grant Application (RFGA), or a letter invitation to pre-qualified sources. The offerors' responses must comply with the terms and conditions stated in the solicitation. This process is used when specifications cannot be sufficiently defined or detailed to assure the procurement of appropriate and acceptable item(s) and service(s), and price is the primary, but not the sole, source selection factor. After receipt of proposals and a source selection process, negotiations may be held with one or more offerors and contract award is made with consideration of price and other factors determining the best value for the County. A source selection process is used for RFP and RFGA to select firms for negotiations. RFGA is only used where the intent is to make multiple awards. The County Contracting Manual and its Supplements provide further definition and County procedures for this process.

C. “Public Exigency”: An emergency situation when the health and safety of the public or persons in the custody or care of the County are at risk if immediate measures are not taken to resolve the problem situation and it is not possible or practical to convene a Special Meeting of the Board of Supervisors

D. “Sole Source”: A procurement process in which item(s) or service(s) are procured from, or are a product of either:

- a. A single source of supply not selected through a competitive procurement process.
- b. A single manufacturer, even though the items or services may be procured through a competitive procurement process (i.e., limited competition among dealers and distributors).

Sunset Date

This policy will be reviewed for continuance by 12-31-08.

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Competitive Procurement

**Policy
Number**

A-87

Page

7 of 7

Board Action

2-24-81 (134)

2-06-90 (43)

5-15-96 (11)

01/28/03 (16)

CAO Reference

1. Department of Purchasing and Contracting
2. County Counsel
3. Chief Financial Officer/Auditor and Controller